

REMARKS

Claims 1-19 remain in this application. Claim 17 is amended herein.

Reconsideration of the rejection of claims 1-5, 7-13, and 15-18 under 35 U.S.C. 102(b) as being anticipated by U.S. Pat. No. 6,269,521 to Gabel ("Gabel") is requested. It is believed that independent claims 1, 9 and 17, and dependent claims 2-5, 7, 8, 10-13, 15, 16, and 18, are not anticipated by Gabel for the reasons given below.

Regarding claim 1, Gabel does not disclose or suggest "a track to be carried by the movable deck." Regarding claim 9, Gabel does not disclose or suggest "a track to be secured to the lid or hood." The examiner contends that "Gabel discloses ... a track (28) to be carried by the closure" 20. However, contrary to the examiner's contention, Gabel's track 28 is not "carried by the closure" 20. Instead, as disclosed at col. 2, lines 34-54, and clearly shown in Figs. 1, 2, and 4-6, Gabel's track 28 is formed in the base member bracket 12 which is fixedly secured to the base 14, *not "carried by the movable deck" 20 as required by claim 1 or "secured to the lid or hood" 20 as required by claim 9.*

Regarding claim 17, Gabel does not disclose or suggest "a track to be secured to the vehicle movable deck." As noted, Gabel's track 28 is formed in the base member bracket 12 which is fixedly secured to the base 14, *not "secured to the vehicle movable deck" 20 as required by claim 17.* Gabel does not disclose or suggest "a driver having an output shaft that moves about its axis." Instead, as disclosed at col. 3, lines 22-34, and shown in Figs. 1, 2, and 4-6, Gabel discloses a driver 100, such as a gas spring or a helical spring, which has a fixed end 102 secured to the base member bracket 12 and a driving end 104 secured to a guide pin 106 which slides in the slots 28. Gabel does not disclose "an output shaft," *much less "an output shaft that moves about its axis" as required by claim 17.* Further, Gabel does not disclose or suggest "the output shaft of the driver being coupled to the proximal end of the driving arm." Instead, as disclosed at col. 3, lines 26-30, and shown in Figs. 1, 2, and 4-6, the driving end 104 of the driver 100 is coupled to the distal end 96 of the driving arm 76, *not to "the proximal end" 98 of the driving arm 76 as required by claim 17.*

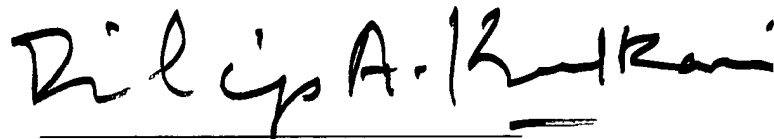
Accordingly, at least for the foregoing reasons, applicants respectfully submit that amended independent claims 1, 9 and 17, and dependent claims 2-5, 7, 8, 10-13, 15, 16, and 18, are not anticipated by Gabel, and hence withdrawal of the 35 U.S.C. 102(b) rejection thereof is respectfully requested.

The examiner rejected claims 6, 14, and 19 under 35 U.S.C. § 103(a) as being unpatentable over Gabel in view of U.S. Pat. No. 6,789,834 to Schlegel. This rejection is rendered moot due to the dependency of these claims from claims 1, 9 and 17 which are in condition for allowance as discussed above.

In view of the foregoing amendment and supporting remarks, the subject application is now deemed to be in condition for allowance, and such action is respectfully requested. If the Examiner believes that a telephonic interview would expedite the allowance of this application, he is requested to contact the undersigned for a prompt resolution of any outstanding issues.

It is respectfully requested that, if necessary to effect a timely response, this paper be considered as a Petition for an Extension of Time sufficient to effect a timely response, and shortages and other fees be charged, or any overpayment in fees be credited, to the Account of Barnes & Thornburg, Deposit Account No. 10-0435, with reference to file 20556-74748. A duplicate copy of this authorization is enclosed.

Respectfully submitted,
BARNES & THORNBURG



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